

§ 1201.26

5 CFR Ch. II (1–1–03 Edition)

§ 1201.26 Number of pleadings, service, and response.

(a) *Number.* The appellant must file two copies of both the appeal and all attachments with the appropriate Board office.

(b) *Service—(1) Service by the Board.* The appropriate office of the Board will mail a copy of the appeal to each party to the proceeding other than the appellant. It will attach to each copy a service list, consisting of a list of the names and addresses of the parties to the proceeding or their designated representatives.

(2) *Service by the parties.* The parties must serve on each other one copy of each pleading, as defined by § 1201.4(b), and all documents submitted with it, except for the initial appeal. They may do so by mail, by facsimile, by personal delivery, or by commercial overnight delivery to each party and to each representative. A certificate of service stating how and when service was made must accompany each pleading. The parties must notify the appropriate Board office and one another, in writing, of any changes in the names or addresses on the service list.

(c) *Paper size.* Pleadings and attachments must be filed on 8 1/2 by 11-inch paper, except for good cause shown. This requirement enables the Board to comply with standards established for U.S. courts.

[54 FR 53504, Dec. 29, 1989; 55 FR 548, Jan. 5, 1990, as amended at 58 FR 36345, July 7, 1993]

§ 1201.27 Class appeals.

(a) *Appeal.* One or more employees may file an appeal as representatives of a class of employees. The judge will hear the case as a class appeal if he or she finds that a class appeal is the fairest and most efficient way to adjudicate the appeal and that the representative of the parties will adequately protect the interests of all parties. When a class appeal is filed, the time from the filing date until the judge issues his or her decision under paragraph (b) of this section is not counted in computing the time limit for individual members of the potential class to file individual appeals.

(b) *Procedure.* The judge will consider the appellant's request and any opposi-

tion to that request, and will issue an order within 30 days after the appeal is filed stating whether the appeal is to be heard as a class appeal. If the judge denies the request, the appellants affected by the decision may file individual appeals within 30 days after the date of receipt of the decision denying the request to be heard as a class appeal. Each individual appellant is responsible for either filing an individual appeal within the original time limit, or keeping informed of the status of a class appeal and, if the class appeal is denied, filing an individual appeal within the additional 35-day period.

(c) *Standards.* In determining whether it is appropriate to treat an appeal as a class action, the judge will be guided but not controlled by the applicable provisions of the Federal Rules of Civil Procedure.

[54 FR 53504, Dec. 29, 1989, as amended at 59 FR 31109, June 17, 1994; 62 FR 59992, Nov. 6, 1997]

§ 1201.28 Case suspension procedures.

(a) *Joint requests.* The parties may submit a joint request for additional time to pursue discovery or settlement. Upon receipt of such request, the judge will suspend processing of the case for a period up to 30 days. The judge will grant an extension of the suspension period for up to an additional 30 days upon a joint request from the parties for additional time.

(b) *Unilateral requests.* Either party may submit a unilateral request for additional time to pursue discovery as provided in this subpart. Unilateral requests for additional time may be granted at the discretion of the judge.

(c) *Time for filing requests.* The parties must file a joint request that the adjudication of the appeal be suspended within 45 days of the date of the acknowledgment order (or within 7 days of the appellant's receipt of the agency file, whichever date is later). A request for an additional 30-day suspension period must be made on or before the fifth day before the end of the first 30-day suspension period.

(d) *Untimely requests.* The judge may consider requests for initial suspensions that are filed after the time limit set forth in paragraph (c) of this section. Such requests for additional time